IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.62 OF 2004

Kuldeep Narayan ...Applicant
Vs.
The State of Maharashtra & Anr. ...Respondents

Shri. H.V.Prithwani for the Applicant.
Shri. R.Y.Mirza A.P.P.for the Respondent No.1.
Shri. J.C. Satpute for the Respondent No.2.

CORAM : A. S. OKA, J.
DATED : JULY 13, 2005.

P.C.:

1. Heard Counsel appearing for the parties. The Appliction for discharge made by the Applicant who is the accused No.6 has been rejected by the learned Trial Judge.

2. The question before this court is whether there is a material to support the case of the Respondents as stated in the chargesheet filed against the present Applicant. The present Applicant at the relevant time was General Manager of Rashtriya Chemical and Fertilizers Ltd. Chembur, Mumbai. The allegation is that the then Chairman and Managing Director of the Rashtriya Chemical and Fertilizers Ltd. Chembur, Mumbai, in conspiracy with the Applicant and other Officers and one Pradeep Ramrakhiani, partner of M/s.Pradeep and Company cheated the Rashtriya Chemical and Fertilizers by providing unauthorised supply of Sodium Nitrate and Sodium Nitrite to said Pradeep on "clean credit basis" contrary to Policy of R.C.F of "pay-carry basis". The

allegation is that wrongful loss was caused to the Rashtriya Chemical and Fertilizers.

3. The allegations against the Applicant can be summarised by quoting the relevant extract of the charge submitted by Police Inspector of C.B.I. A.C.B. Mumbai which reads thus:

> . That the said Shri. Kuldip Narayan recommended and approved the aforesaid recommendations of the said Shri. S.M.Dhingra and gave the aforesaid facility to the said Shri. Pradip Ramrakhiani on trial basis till 31.03.1989.
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> . That the said Shri. R. Venkatesan approved the aforesaid recommendations of the said Kuldip Narayan saying "OK let us see as a trial to increase the sale and then decide on permanent basis".
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> . That in pursuance of the note put up by Shri. R.Sen, Dy. Marketing Manager, RCF Ltd., Chembur, Mumbai on 31.03.1998, the said Shri. R.K.Dargar approved and recommended to continue the aforesaid facility to the said Shri. Pradip Ramrakhiani for a further period of three months knowing fully well that there were outstanding dues of Rs.17.70 lakhs against the said Shri. Pradip Ramrakhiani.
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> . That the said Shri. Kuldip Narayan approved and recommended the aforesaid facility to the said Shri. Pradip Ramrakhiani for a further period of three months with effect from 01.04.1989.
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> . That the said Shri. R. Venkatesan approved the aforesaid recommendations of the said Shri. R.K.Dargar and Kuldip Narayan for extending the aforesaid facility to the said Shri. Pradip Ramrakhiani for a

further period of 3 months till July, 1989 without obtaining the approval of the Board.

. That in pursuance of the note put up by Shri. A.T.Muley, Dy. Marketing Manager, RCF, Ltd., Chembur, Mumbai, the said Shri. R.K.Dargar approved and recommended further credit facility to the said Shri. Pradip Ramrakhiani falsely mentioning that the party's performance had improved and that the stock of the aforesaid chemical material was at zero level.

. That the said Shri. Kuldip Narayan and R. Venkatesan, approved the recommendations of the said Shri. R.K.Dargar as aforesaid and okayed the said proposal enhancing the credit facility to the said Shri. Pradip Ramrakhiani till 31.03.1990 inspite of the fact that there were outstanding dues to the tune of Rs.22 lakhs against the said Shri. Pradip Ramrakhiani.

The offence alleged against the Applicant and the co-accused is under section 420 and 120-B of the Indian Penal Code and section 13(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988.

4. The learned Counsel for the Applicant submitted that except for writing innocuous recommendation, the Applicant has played no role. He submitted that infact the Applicant has noted that the letter received from Raja Chemical Corporation should be filed. He submitted that a copy thereof was send directly to the higher authorities. He submitted that the noting made by the Applicant was to the effect that "No Credit without collaterals".

5. After having heard the counsel appearing for the parties, I find no fault with the impugned judgment and order dated 21st November, 2003 by which the Application for discharge made by the Applicant was dismissed. On the record there is a recommendation made by the Applicant on the Application by the M/s. Raja Chemical Corporation. There is material on record to show that the Applicant approved the recommendation for giving the facility to the said Pradip and co-accused on trial basis till 31st March, 1989. It is pertinent to note that Section 120-B of the Indian Penal Code has been also invoked. It cannot be said that at present, there is no material available which will support the case of the prosecution as stated in the chargesheet.

6. It is well settled that while considering the Application for discharge, the Court cannot undertake the elaborate inquiry in sifting and weighing the material. All that is required to considered is whether there is material on record which can reasonably connect the Applicant with the offence. Hence, no fault can be found in the approach of the learned Trial Judge. There is no merit in the Criminal Revision Application and the same is dismissed.

JUDGE